

Remarks/Arguments:

STATUS OF THE CLAIMS

Claims 6-11, 13, 14 and 16-19 are pending and currently under consideration.

Applicant again thanks the Examiner for finding claim 13 allowable upon being rewritten in independent form.

As suggested by the Examiner, Claim 6 has been rephrased to recite, in pertinent part, consisting of only one substantially spherical balancing insert. This amendment is made to address the Examiner's Claim Objections upon finding that this phrase was originally illogical as drafted. Support for this amendment is contained within Claim 6.

Claims 6 and 16 have been amended to recite, in pertinent part, a concave region encompasses an area within the plane of the lower surface greater than an area defined by the circumference of the balancing insert, and, a board wherein the shape of the board is non-spherical and wherein the concave region is not symmetrically located in the board. In light of these amendments, the claims have also been amended to delete ~~wherein the board has a general surfboard, snowboard, wakeboard or skateboard shape.~~ Support for the amendment is found throughout the specification including at Pg 9, Lines 4-6 ("a concave area which is still greater in size, extending to the rear of the board") and Line 16 ("at both the front and rear of the board"), Line 18 ("at the ends of the board"), Page 14, Line 2 ("a standard, functional surfboard") and in Figures 1-10.

REJECTIONS UNDER 35 U.S.C. § 102(b)

ARMER

Claims 6, 7, 9 and 16 are rejected under 35 U.S.C. § 102(b) as being anticipated by Armer, Jr., U.S. Patent No. 4,191,371 ("Armer"). The Examiner states that Armer discloses a balance training device wherein the board has a general surfboard/round or circular shape. The Examiner cites U.S. 3,716,880 to Sorenson as disclosing a surfboard having a round or circular shape. Applicant respectfully traverses.

Not in acquiescence to the Examiner's position, but to advance prosecution, Applicant has amended claims 6 and 16 to further distinguish the present invention from Armer. The present invention is now clearly distinct from Armer in that Armer discloses **spherical** and **symmetrical** balancing devices and the present invention claims a **non-spherical** and **non-symmetrical** device. As is shown in Figures 1-4, Armer's device is symmetrical/round and contains a concave region symmetrically located in the device. As such, Applicant submits that each and every element of the claims is not found in Armer as required for a reference to be anticipatory. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 626, 631 (Fed. Cir. 1987).

For at least these reasons, Applicant respectfully requests that the rejection of claims 6, 7, 9 and 16 as being anticipated under 35 USC 102(b) by Armer be withdrawn.

ROMERO

Claim 11 is rejected under 35 U.S.C. § 102(b) as being anticipated by Romero, U.S. 5,897,474. The Examiner states that Romero discloses a balance training device having a concave region encompassing an area greater than an area defined by the circumference of the balance insert and a securing device which extends through the board. Applicant respectfully traverses.

The present invention is distinct from Romero in that Romero discloses a **symmetrical** balancing device and the present invention claims a **non-symmetrical** device. As is shown in Figures 1 and 2, Romero's device contains a concave region symmetrically/centrally located in the device.

Moreover, contrary to the Examiner's position, Romero does not disclose a concave region encompassing an area within the plane of the lower surface **greater than** an area defined by the circumference of the balance insert nor a securing device which extends **through** the board. As is clearly evident by Figure 2, the concave region is defined by the beveled groove (15) located on the bottom of the board (12) as part of the central opening (16). This region is visibly **smaller than** the circumference of the pivoting member (14) that is "press fit" between the small ball shaped rigid members (18) and (20). Col. 6, Lines 52-54. The requirement of a larger concave region than an area defined by the circumference of the insert is to allow the

insert the ability to move to different positions under the board providing various balancing conditions for the user.

With respect to the securing device, both Figures 1 and 2 show the securing device does not "extend through the board" as required by claim 11. From Figure 2, it is shown to extend **into** the board (12). And, as is shown in the undisturbed surface of Figure 1, it does not extend through the board (12).

For at least these reasons, each and every element of the claim 11 is not found in Romero as required for a reference to be anticipatory. For at least these reasons, Applicant respectfully requests that the rejection of claim 11 as being anticipated under 35 USC 102(b) by Romero be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 103(a)

Armer in view of Sasser

Claims 8 and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Armer in view of Sasser, Jr., U.S. Patent No. 3,488,049 ("Sasser"). The Examiner states that Sasser discloses a similar training device with a board having a concave region with a substantially oval/oblong or rectangular shape. The Examiner states it would have been obvious to modify the shape of Armer's concave region as long as it is still able to rotate in all directions. Applicant respectfully traverses.

To establish a prima facie obviousness rejection under 35 U.S.C. § 103, the reference must teach or suggest all the claim limitations. In re Royka, 490 F.2d 981 (CCPA 1974). As stated above, Armer fails to disclose **non-spherical** and **non-symmetrical** balancing devices. The addition of Sasser does not address all of Armer's deficiencies. As such, Applicant respectfully requests that the rejection of claims 8 and 10 as being obvious under 35 USC 103(a) by Armer in view of Sasser be withdrawn.

England in view of Sasser

Claims 6, 14 and 16-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over England, U.S. Patent No. 3,862,768 ("England") in view of Sasser. The Examiner states that

the combination of England and Sasser makes obvious a platform to allow a user to ride a board in multiple directions. Applicant respectfully traverses.

The present invention is distinct from England in that England discloses **spherical** and **symmetrical** balancing devices and the present invention claims a **non-spherical** and **non-symmetrical** device. As is shown in Figures 1-5, England's device is spherical/round and contains a concave regions symmetrically/centrally located in the device. The addition of Sasser does not address all of Englands's deficiencies. As such, Applicant respectfully requests that the rejection of claims 6, 14 and 16-19 as being obvious under 35 USC 103(a) by England in view of Sasser be withdrawn.

CONCLUSION

The foregoing is believed to be fully responsive to the May 13, 2008 office action. The embodiments presented are believed to be allowable over the prior art of record. Consideration and allowance of the claims is respectfully requested.

In the event that any fee has been inadvertently overlooked and is required, the Commissioner is hereby authorized to charge any required fee or credit any overpayment to **Deposit Account No. 50-3570**.

If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned. If the Examiner has any questions in connection with this paper, or otherwise if it would facilitate the examination of this application, please call the undersigned at the telephone number below.

Respectfully submitted,



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